

EXHIBIT

10

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS,)

Plaintiff,)

VS.)

ERIC H. HOLDER, JR. in his)
official capacity as Attorney)
General of the United States,)

Defendant,)

ERIC KENNIE, et al,)

Defendant-Intervenors,)

TEXAS STATE CONFERENCE OF)
NAACP BRANCHES,)

Defendant-Intervenors,)

TEXAS LEAGUE OF YOUNG VOTERS)
EDUCATION FUND, et al,)

Defendant-Intervenors,)

TEXAS LEGISLATIVE BLACK)
CAUCUS, et al,)

Defendant-Intervenors,)

VICTORIA RODRIGUEZ, et al.,)

Defendant-Intervenors.)

CASE NO. 1:12-CV-00128
(RMC-DST-RLW)
Three-Judge Court

ORAL DEPOSITION OF
STATE OF TEXAS 30(b)(6)

LEE GUYETTE

JUNE 19, 2012



Toll Free: 800.211.DEPO
Facsimile: 202.296.8652

Suite 350
1425 K Street NW
Washington, DC 20005
www.esquiresolutions.com

ORAL DEPOSITION OF LEE GUYETTE, produced as a witness at the instance of the Defendant, was duly sworn, was taken in the above-styled and numbered cause on the JUNE 19, 2012, from 3:13 p.m. to 6:09 p.m., before Chris Carpenter, CSR, in and for the State of Texas, reported by machine shorthand, at the Offices of the Texas Attorney General, 209 West 14th Street, 6th Floor, Austin, TX 78701, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.



A P P E A R A N C E S

FOR THE PLAINTIFF, STATE OF TEXAS:

Patrick K. Sweeten
Reynolds Brissenden
OFFICE OF THE ATTORNEY GENERAL OF TEXAS
P.O. Box 12548
Austin, TX 78711-2548

209 West 14th Street
8th Floor
Austin, TX 78701
(512) 936-1307
patrick.sweeten@texasattorneygeneral.gov

FOR THE DEFENDANT, HOLDER, ET AL:

Daniel Freeman
Victor Williamson
U.S. DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, NW
NWB - Room 7202
Washington, DC 20530
(202) 305-7766
daniel.freeman@usdoj.gov



INDEX

Appearances.....	2
Stipulations pages attached after Page.....	93
LEE GUYETTE	
Examination by Mr. Freeman.....	5
Examination by MR. Sweeten.....	85
Further Examination by Mr. Freeman.....	87
Further Examination by Mr. Sweeten.....	89
Signature and Changes.....	90
Reporter's Certificate.....	92

EXHIBITS

NO.	DESCRIPTION	PAGE MARKED
971	E-mail string, January 25-27, 2011	22
972	E-mail string, January 27 thru February 1, 2011	28
973	E-mail string, November 15-16, 2011	45
974	E-mail string, November 7 thru December 9, 2011	47
975	E-mail string, January 25, 2011	49
976	Mendoza E-mail, January 25, 2011 1:03 p.m.	60
977	Mendoza E-mail, January 25, 2011 3:35 p.m.	63



1 LEE GUYETTE,
2 having been first duly sworn to testify the truth, the
3 whole truth, and nothing but the truth, testified as
4 follows:

5 EXAMINATION

6 BY MR. FREEMAN:

7 Q. Sir, could you state your name for the record.

8 A. Lee Guyette.

9 Q. And how do you spell your last name?

10 A. G-u-y-e-t-t-e.

11 Q. Okay. Thank you.

12 My name is Dan Freeman, and I'm here on
13 behalf of the defendant in this matter, Eric H. Holder,
14 Jr. To my right is my colleague, who can introduce
15 himself.

16 MR. WILLIAMSON: I'm Victor Williamson.

17 MR. FREEMAN: And if your counsel can
18 introduce themselves for the record as well.

19 MR. SWEETEN: Patrick Sweeten on behalf of
20 the State of Texas and on behalf of the witness, Lee
21 Guyette.

22 MR. BRISSENDEN: Reynolds Brissenden on
23 behalf of the State of Texas and the witness,
24 Mr. Guyette.

25 MR. SWEETEN: Dan, maybe for the record, I



1 want to go ahead and talk about where we are.

2 MR. FREEMAN: Sure.

3 MR. SWEETEN: We are presenting
4 Mr. Guyette today for Topic 8, which is, has been
5 required by the court pursuant to an order yesterday.

6 At that time, the court required us to
7 have Mr. Guyette sit -- or a corporate representative
8 sit for Topic 8, which is any and all of registered
9 voters who possess Texas driver's license or personal
10 identification card, conducted between January 1st, 2005
11 and May 27th, 2011, including but not limited to
12 analysis conducted in February or March of 2011 by the
13 DPS and the Elections Division of the Secretary of
14 State. Mr. Guyette is being presented here on very
15 short notice, based upon the provisions of the court
16 order.

17 In addition, prior to the deposition --
18 and I think it was about an hour and a half prior to, I
19 provided Mr. Freeman some documents. The court had
20 required us to provide documents that Mr. Guyette had
21 relied upon. We made at that time -- we've asserted and
22 continue to assert an attorney-client privilege with --
23 or an attorney-client privilege with respect to a number
24 of these documents, which contain information from
25 Ms. McGeehan. However, we interpreted the court's order



1 to require us to provide that information, and
2 therefore, we are not in any way waiving our argument
3 with respect to the attorney-client privilege, but
4 instead to comply with the court's order of yesterday.

5 With that, you can proceed.

6 MR. FREEMAN: Okay. Thank you.

7 Q. (By Mr. Freeman) And Mr. Guyette, just so you
8 know, you're aware that this is a deposition in the
9 matter of Texas v. Holder, preclearance litigation in
10 the District of Columbia?

11 A. Yes, sir.

12 Q. Okay. Have you ever been deposed before?

13 A. No, I have not.

14 Q. Okay. So a deposition functions as a question
15 and answer. I get to ask the questions, you give the
16 answers. There's a court reporter to my left,
17 Mr. Carpenter, and he will write down everything that is
18 said in the room. However, in order to get a good
19 record, you need to articulate your answers rather than
20 gesturing, because that can't be recorded by the court
21 reporter. Do you understand?

22 A. I understand.

23 Q. Okay. The purpose of the deposition is to
24 obtain your full and complete answers, so I need you to
25 provide as full of an answer as you can on the basis of



1 your knowledge in response to my questions. Do you
2 understand?

3 A. I understand.

4 Q. I may not always be clear. This is
5 particularly the case, as I have received documents
6 relatively recently, and as you can tell, I'm reading
7 from a computer rather than having worked things out
8 completely in advance, so I'll have to apologize if my
9 questions aren't clear.

10 If you don't understand at all, please ask
11 me to restate the question or reframe the question. I'm
12 happy to do so. It's much more important that you
13 provide accurate testimony in response to my questions
14 rather than leave some kind of uncertainty. Do you
15 understand?

16 A. I understand.

17 Q. Okay. If you need a break, tell me, and we'll
18 finish the question and see about a break. Is that all
19 right?

20 A. Yes.

21 Q. Okay. If you need any water, coffee or
22 anything, please grab water between questions and not
23 during. And I don't mean just drinking from the bottle
24 of water in front of you. That's fine. If you want the
25 extra bottle of water at the end the table, finish the



1 question first.

2 If you want to talk to your attorney,
3 again, that's fine. But similarly, if there is a
4 question pending or you're in the middle of an answer,
5 please finish that up first, okay?

6 A. I understand.

7 Q. Sometimes you may remember things later in the
8 day, based on a question I ask or an answer you give.
9 If that happens, please let me know what's in your mind,
10 and we'll add it to the record. Will you do that?

11 A. I will.

12 Q. Okay. I'll give you a chance to do that at the
13 end as well. Okay?

14 A. Yes, sir.

15 Q. Okay. Sometimes, after we've been talking for
16 a while, you may realize that a prior answer was not
17 entirely accurate. If you realize that, will you let me
18 know, so that you can correct the record?

19 A. I will.

20 Q. Okay. Sometimes while you're answering, you
21 may think of a document that would help you remember or
22 help you answer more accurately. If you do, please let
23 me know. We may have that document here, and if not, we
24 may be able to get it to help you. Okay?

25 A. I understand.



10

1 Q. Are you on medication or drugs of any kind that
2 might make it difficult for you to understand and answer
3 questions?

4 A. No.

5 Q. And these are just routine questions. Don't
6 take offense.

7 A. No. Okay.

8 Q. Have you had anything alcoholic to drink in the
9 last eight hours?

10 A. No.

11 Q. Are you at all sick today?

12 A. No.

13 Q. Are you currently under a doctor's care for any
14 illness that would limit your ability to answer
15 questions?

16 A. No.

17 Q. Is there any reason you can think of why you
18 will not able to answer my questions fully and
19 accurately?

20 A. No.

21 Q. The last thing: I want to remind you that you
22 are under oath, and you're subject to federal penalties
23 for giving false or misleading testimony, so it's
24 important that you answer my questions truthfully,
25 accurately and completely. Do you understand?



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 202.296.8652

Suite 350
1425 K Street NW
Washington, DC 20005
www.esquiresolutions.com

11

1 A. I understand.

2 Q. Okay. Also, it's very important that we not
3 speak over each other.

4 A. I just did. Yeah, I got you.

5 Q. It makes it very hard for the court reporter to
6 make a good record. So I'll try and wait for you to
7 finish answering before asking you a question, if you
8 could try to wait for me to finish asking the question
9 before answering, it will make life easier for everyone.

10 A. I understand.

11 Q. Great. Good.

12 Do you understand that you are testifying
13 on behalf of the State of Texas and not in your
14 individual capacity today?

15 A. Yes.

16 Q. What is your position?

17 A. Project manager.

18 Q. Okay. And is that within the Office of the
19 Secretary of State?

20 A. Yes.

21 Q. Is that within the IT division specifically?

22 A. Yes.

23 Q. Okay. How long have you held that position?

24 A. Three years.

25 Q. And how long have you been at the Office of the



12

1 Secretary of State?

2 A. The same three years.

3 Q. Okay. As project manager, do you supervise any
4 other individuals?

5 A. Yes.

6 Q. How many individuals?

7 A. Seven individuals.

8 Q. Okay. And are you responsible for any
9 particular area of the information technology systems of
10 the Office of the Secretary of State?

11 A. Yes. Software development for the voter
12 registration database.

13 Q. Is that also known as the TEAM database?

14 A. Yes.

15 Q. And can you tell me what the TEAM database
16 stands for?

17 A. Texas Elections Administration Management.

18 Q. Okay. The last witness I asked that was not
19 totally sure. Now we know. Thank you.

20 And do you work on any other databases
21 besides TEAM?

22 A. Yes.

23 Q. What other databases?

24 A. There is a system called PPRI, which tracks
25 funding, and a system known as ENR, which is election



1 night returns.

2 Q. Okay. Anything else?

3 A. No.

4 Q. Okay. Thank you.

5 What is your educational background?

6 A. A bachelor's in electrical engineering, a
7 master's in electrical engineering with computer
8 science.

9 Q. Okay. Do you have any certifications with
10 regard to databases or programing in any way?

11 A. I have certifications, not in databases, but in
12 project management.

13 Q. And what are those certifications?

14 A. PMP, as well as -- I'll leave it at PMP.

15 Q. Okay. And what does PMP stand for?

16 A. Project Management Professional.

17 Q. Okay. And who provides that certification?

18 A. It's provided by PMP. The name is the same as
19 the certification.

20 Q. Okay. That's the organization?

21 A. Yes.

22 Q. Okay. And prior to coming work for the Office
23 of the Secretary of State, where were you employed?

24 A. Previously employed at Dell Computer.

25 Q. Okay. For how long?



14

1 A. Ten years.

2 Q. And were you a project manager as well?

3 A. Project managers at some time, but also senior
4 manager.

5 Q. Okay. And prior to Dell, where were you
6 employed?

7 A. Compaq Computer, now HP.

8 Q. And how long were you at Compaq?

9 A. Five years.

10 Q. And were you also a project manager or a senior
11 manager?

12 A. Yes, software management.

13 Q. And prior to Compaq, where were you?

14 A. Department of Defense for three years.

15 Q. Okay.

16 A. Software development.

17 Q. Okay. Was that out near D.C.?

18 A. That was actually in California.

19 Q. Even better.

20 A. Yeah.

21 Q. And prior to DoD, where were you?

22 A. General Dynamics for five years.

23 Q. Okay.

24 A. Software development.

25 Q. Okay. And I think we've gone far enough back.



1 A. That's pretty far.

2 Q. That's fine.

3 When did you first learn that you would be
4 testifying on behalf of the State?

5 A. This morning.

6 Q. If you could take a look at this. This has
7 previously been marked as U.S. Exhibit 830. Just take a
8 moment to look it over.

9 A. (Witness reviewing document.)

10 Q. Okay. You can hold on to it.

11 A. Okay.

12 Q. Have you seen that document before?

13 A. I don't recall seeing this specific document.

14 Q. Have you seen any portion of the document, any
15 of the text previously?

16 A. Well, I don't -- I don't know. I've seen
17 similar text in everywhere from paper to potentially
18 e-mail. I can't say if any piece of this is a stand
19 out.

20 Q. Okay. Could you turn to the last two pages.

21 A. Yes.

22 Q. And do you see a list of topics, 1 through 12,
23 listed here?

24 A. Yes.

25 Q. Have you seen Topic 8 before? And maybe take a



1 look at it.

2 A. Yes.

3 Q. And are you prepared to testify on behalf of
4 the State of Texas concerning Topic 8?

5 A. Yes.

6 Q. Okay. Could you read, just for the record,
7 what Topic 8 is?

8 A. "Any and all analysis of registered voters who
9 possess a Texas driver's license or a personal
10 identification card, conducted between January 1st, 2005
11 and May 27th, 2011, including, but not limited to
12 analysis conducted in February or March 2011 by the
13 Department of Public Safety and the Elections Division
14 of the Secretary of State."

15 Q. Okay. What did you do to prepare for this
16 deposition?

17 A. Went back and reviewed some e-mails --

18 Q. Okay.

19 A. -- which I believe were part of the package you
20 received this afternoon. I went and contacted some key
21 purchase events. Keith Ingram, who is director of
22 elections, Karen Richards, who used to head the voter
23 registration TEAM for elections, and John Mendoza, who
24 was a key analyst for the topic we're going to discuss.

25 Q. Anything else?



1 A. Looked at some old programming that was done
2 and tried to research -- I researched if there's any
3 programing or software appropriate prior to January of
4 2011.

5 Q. You said you previously produced some e-mails.
6 Did you produce to your attorneys a full set of e-mails
7 to review?

8 A. Yes. It's the same e-mails that have been
9 previously provided to OAG.

10 Q. Okay. And was Mr. Ingram in the Office of the
11 Secretary of State at the time that you -- or at the
12 time that the analysis at issue occurred?

13 A. No.

14 Q. What did you discuss with Mr. Ingram?

15 A. Questions about what to expect potentially this
16 afternoon, as well as if he was aware, through a
17 disclosure to legislation of the January results, the
18 January 2011 results.

19 Q. And was he aware of any disclosure?

20 A. He is not aware of any disclosure.

21 Q. Did Mr. Ingram provide you with any
22 instructions?

23 A. No.

24 Q. Did you discuss anything else?

25 A. No.



1 Q. And you also stated that you spoke with Karen
2 Richards?

3 A. Correct.

4 Q. And you said she was the head of the voter
5 registration team at the time?

6 A. Yes.

7 Q. Is that in January of 2011?

8 A. Yes.

9 Q. And what is her current position?

10 A. She currently holds a position with a third
11 party, VOTEC, V-O-T-E-C.

12 Q. So she's in the private is sector now?

13 A. In the private sector, right.

14 Q. What were her responsibilities as head of the
15 voter registration team?

16 A. She would provide IT groups, such as myself,
17 direction on needed analysis and other TEAM development
18 work.

19 Q. So she's the business side of the TEAM
20 database?

21 A. Yes.

22 Q. Okay. And what subjects did you discuss with
23 Ms. Richards?

24 A. Key focus was on whether or not this
25 information, the January 2011 results were disclosed



1 legislation, and that was the primary discussion.

2 Q. Any secondary discussion?

3 A. I did ask if she remembered the January 2011
4 analysis.

5 Q. Did she?

6 A. Parts.

7 Q. And did she recall if the January 2011 analysis
8 had been disclosed to any legislator?

9 A. She was not aware of any disclosure.

10 Q. And then you said that you spoke to John
11 Mendoza, correct?

12 A. Yes.

13 Q. And you described him as an analyst, correct?

14 A. Developer analyst, yes.

15 Q. Does he still hold that position?

16 A. Yes.

17 Q. And are you his superior?

18 A. Yes.

19 Q. And what did you discuss with Mr. Mendoza?

20 A. We reviewed some of the old programs and
21 discussed some of the analysis that took place in
22 January of 2011.

23 Q. And so does the code still exist from the
24 January 2011 map?

25 A. I saw some of the software code, but portions



1 may be missing.

2 Q. Okay.

3 MR. FREEMAN: Mr. Sweeten, if we were to
4 want copies of that code, do we need to make separate --
5 a separate request, or will you just provide it?

6 MR. SWEETEN: I don't know anything about
7 what it would involve. Let me speak to him at the
8 break, and I may be informed.

9 MR. FREEMAN: That's fine.

10 Q. (By Mr. Freeman) And other than Mr. Ingram,
11 Ms. Richards and Mr. Mendoza, did you meet anyone else
12 or talk with anyone else?

13 A. No.

14 Q. Did you meet with your attorney?

15 A. Excuse me. Yes.

16 Q. I'm not going to ask what you talked you about,
17 but I will ask: When did you meet with them?

18 A. Started at noon today.

19 Q. And who did you meet with specifically?

20 A. The two gentlemen that are here right now.

21 Q. Anyone else?

22 A. No.

23 Q. Where did you meet?

24 A. Right above this conference room.

25 Q. Okay. Did you bring any other documents with



1 you here today?

2 A. I brought a copy of an e-mail that you received
3 this afternoon.

4 Q. So beyond the documents that you reviewed and
5 produced through your attorney?

6 A. No, no other documents.

7 Q. Okay. And you didn't speak with anyone else
8 about the deposition?

9 A. My boss, to make sure he was aware I'd be here
10 this afternoon.

11 Q. And who is your boss?

12 A. Well, the gentleman you had a deposition
13 earlier today with, Scott Brandt.

14 Q. Okay. And did he provide you with any
15 instructions?

16 A. No.

17 Q. Did he say that I'm terrifying?

18 A. No comment.

19 Q. I will withdraw the question.

20 A. (Laughing).

21 Q. All right. Mr. Guyette, did the Office of the
22 Secretary of State receive any requests to perform
23 analysis of registered voters who possess a Texas
24 driver's license or a personal identification card
25 between January 1st of 2005 and May 27th, 2011?



1 A. I can speak for what I received, a request from
2 the Elections Division to produce results in January
3 2011.

4 Q. Are you aware of any requests having been made
5 prior to January 2011 for a similar analysis?

6 A. I'm not aware of any.

7 Q. Are you aware of any similar analysis having
8 been conducted to prior to January of 2011?

9 A. I am not aware of any.

10 Q. Okay. Specifically when in January 2011 was a
11 request for such analysis received?

12 A. Would it be possible to access some of the
13 e-mails you have?

14 Q. Sure. Of course.

15 MR. FREEMAN: This document will be marked
16 as U.S. Exhibit 971.

17 (U.S. Exhibit 971 marked for
18 identification.)

19 MR. FREEMAN: That's your copy. That copy
20 is for your counsel.

21 Q. (By Mr. Freeman) If you could just take a
22 moment and just look that over, and it will refresh your
23 recollection.

24 A. (Witness reviewing document.) So the time frame
25 was on or about January 25th, 2011.



1 Q. And does this document say that -- pardon me.

2 Did you send an e-mail at 1:03 p.m. on
3 January 25th of 2011, saying that you had conducted
4 analysis and spent two and a half hours on this request?

5 A. Yes. It's -- on January 25th, it's the totals
6 that came up on short notice, which leads me to believe
7 that's when the analysis took place, on or about January
8 25th.

9 Q. Okay. Do you recall if you started working on
10 the analysis immediately after you received the request?

11 A. I don't recall.

12 Q. And who gave you the request?

13 A. The request, as dictated, you know, through the
14 chain, typically came from either Ann McGeehan or Karen
15 Richards.

16 Q. Do you recall in this instance whether you had
17 received the request from Ann, from Ms. Richards or from
18 another individual?

19 A. For the initial request, I do not recall.

20 Q. Okay. Do you know where the request itself
21 originated, who made the request to the Division of
22 Elections or the Office of the Secretary of State?

23 A. This specific request I do not recall, but
24 traditionally, all requests come through in business
25 partner, which would be Ann and Karen.



1 Q. Okay. But you're not -- you don't know whether
2 it came from the legislature or from an individual
3 legislator, et cetera?

4 A. I do not recall, but typically, legislators
5 don't contact IT directly to perform such functions.

6 Q. Fair enough. And just for the record, did the
7 State of Texas conduct any analysis in response to that
8 request?

9 A. Yes.

10 Q. How many separate rounds of analysis did the
11 State of Texas conduct?

12 A. During this January time period?

13 Q. Yes.

14 A. Roughly six. Six that I'm aware of.

15 Q. Okay. Are you aware -- just so we can narrow
16 the time frame --

17 A. Sure.

18 Q. -- for the rest of the conversation, are you
19 aware of any other requests for analysis after this
20 approximately January 25 request, but before May 27th,
21 2011?

22 A. I'm not aware of any others.

23 Q. And are you aware of any other analysis, after
24 these approximately six rounds of analysis, around
25 January 25th and before May 27th?



25

1 A. I'm not aware of any other analysis or efforts.

2 Q. Great. So we can talk about a narrow window.

3 Who performed the actual analysis in
4 response to the request?

5 A. That would be John Mendoza.

6 Q. And did you supervise that analysis?

7 A. Yes.

8 Q. What instructions did you give to Mr. Mendoza?

9 A. Instructions were given by Ann McGeehan and
10 Karen Richards. Our response was to follow those
11 instructions down to the letter.

12 Q. Okay. So you were simply passing things along
13 to the programmer?

14 A. Yes.

15 Q. Okay. Normally, do you pass along such
16 instructions with the same quote, unquote, "to the
17 letter" sort of mentality or instruction?

18 MR. SWEETEN: Objection, vague. Go ahead.

19 A. Okay. It really just depends on the case.

20 Q. (By Mr. Freeman) Okay.

21 A. In this condition, it was very clear what Ann
22 and Karen were asking for.

23 Q. How did they make it clear that they were
24 asking for that precise type of analysis?

25 A. They dictated the data to be used and they



1 dictated the matching criteria.

2 Q. Is Ms. Richards familiar -- to the extent of
3 your knowledge, is she familiar with the technical
4 contents of the TEAM database?

5 A. More than enough to be able to make this
6 request.

7 Q. Okay. And is Ms. McGeehan familiar with the
8 technical contents of the TEAM database to the level
9 necessary to make a specific request of this nature?

10 MR. SWEETEN: Objection, calls for
11 speculation.

12 Q. (By Mr. Freeman) And to the extent of your
13 knowledge?

14 A. To the extent of my knowledge, yes.

15 Q. Okay. And I'll just clarify that your counsel
16 may make objections at various points. Unless he
17 instructs you not to answer affirmatively, you can go
18 ahead and answer. But I'll remind you and he'll remind
19 you, et cetera.

20 MR. SWEETEN: Yeah.

21 Q. (By Mr. Freeman) Did the Department of Public
22 Safety or its employees provide any input concerning
23 this analysis?

24 A. No. Excuse me. No.

25 Q. And did the Office of the Attorney General



1 provide any input with regard to the analysis?

2 A. Not that I'm aware of.

3 Q. Did the Department of Public Safety receive any
4 copies of this analysis?

5 A. I do not know.

6 Q. Did the Office of the Attorney General receive
7 any copies of this analysis at this time?

8 A. I do not know.

9 Q. How long was Karen Richards in her position as
10 the head of the voter registration team; do you know?

11 A. Long before I arrived, so I don't know.

12 Q. And when did she leave again?

13 A. 2011. I can't recall a specific month.

14 Q. Are you aware of whether David Falk, F-a-l-k,
15 was involved in this analysis?

16 A. I don't recall, but I'm going to say I don't --
17 I don't know. I do not recall working with David on
18 this.

19 Q. Okay. Do you know if Todd Giberson was
20 involved with this in any capacity?

21 A. I'm not familiar with Todd.

22 Q. Do you know if Joshua Zahn, Z-a-h-n, was
23 involved in any capacity?

24 A. Are these OAG employees?

25 Q. I'll represent to you that they are employees



1 of the Office of the Attorney General, yes.

2 A. I don't recall any other employees being
3 involved in this activity.

4 Q. Okay. And so it was just you, Mr. Mendoza,
5 Ms. Richards, and Ms. McGeehan?

6 A. Yes.

7 Q. Okay. Do you recall when you completed the
8 project, all six rounds of analysis?

9 A. There's a chance there's another e-mail I'd
10 like to take a look at that has the summary.

11 MR. FREEMAN: We'll mark this as U.S.
12 Exhibit 972.

13 (U.S. Exhibit 972 marked for
14 identification.)

15 A. I see that on February 1st, Ann had the results
16 that she needed and was going to communicate it.

17 Q. (By Mr. Freeman) And if you look a little bit
18 further down, did Karen Richards transmit statistics
19 from six queries on January 27th?

20 A. Yes.

21 Q. Okay. So, was that the extent of the analysis,
22 six queries?

23 A. To the best of my knowledge, these were the
24 final results of the queries.

25 Q. Okay. Who else, besides Ann McGeehan and Karen



1 Richards, received copies of this analysis?

2 A. I see the intent of the e-mail, but I don't
3 know if it went beyond the group that you mentioned.

4 Q. Who is Coby?

5 A. That would be Deputy Secretary Coby Shorter,
6 Secretary of State.

7 Q. And the top of this e-mail, does Ms. McGeehan
8 state that she has attached a draft summary that she
9 will send to Coby and John so that they can distribute
10 to legislative folk?

11 A. That's correct. And to clarify, the John that
12 she's referencing is likely the John Sepehri, who was
13 general counsel.

14 Q. Okay. And to the extent of your knowledge, did
15 this distribution end with Coby and John?

16 A. To be honest with you, I don't even know if it
17 went to Coby and John. This is the extent of my
18 knowledge.

19 Q. Okay. All I can ask you for is the extent of
20 your knowledge.

21 A. That's...

22 Q. Now, if you can look back real quickly at
23 Exhibit 491. Do you see on Wednesday, January 26th, at
24 just before 4:00 p.m., Karen Richards sent out an e-mail
25 saying that some queries had already been done, some



1 queries needed to be done? Is that correct?

2 A. So, 491. I'm not sure -- I've got 971, 972,
3 970.

4 Q. I'm sorry. I meant 971.

5 A. Okay.

6 Q. You can see the page that is marked 44399.

7 A. Okay.

8 Q. And do you see that there are queries listed as
9 having been done and queries listed as needing to be
10 done?

11 A. Yes, I do.

12 Q. Is this the format in which you received
13 instructions from Ms. Richards concerning the analysis
14 that was needed?

15 A. I believe there was probably some instruction
16 prior to that, judging from John's earlier response on
17 January 25th. I also believe that Karen's additional
18 instruction, for your reference, of January 26th, lines
19 up with the summary of the six queries that were
20 provided.

21 Q. But in terms of the manner in which
22 Ms. Richards provided instructions to you, is this how
23 she essentially defined the scope of the project, these
24 types of bullet points?

25 A. These types, but I would also say that it



1 wasn't unusual for us to have telephone conversations to
2 enforce and into more detail on instructions.

3 Q. Okay. Do you recall receiving several
4 different sets of instructions as to how the run the
5 queries that resulted in the total of six queries, or
6 were all six given at once?

7 A. Judging from -- and I'm going by the e-mail
8 that we both share -- it looks like there was some,
9 maybe not iteration of queries, but there were some
10 iteration on thought on what the queries should be.

11 Q. Okay.

12 A. So, you could tell that it slowly evolved,
13 through this e-mail chain, what the target queries and
14 matching criteria are; even some discussion about the
15 age that should be used.

16 Q. So if you start at the bottom, the January 25th
17 e-mail, that match was a county code, last name, first
18 name, date of birth match, correct?

19 A. So, I'm sorry. Which document are you
20 referring to?

21 Q. Still 4 -- excuse me -- 971, the last page.

22 A. Okay.

23 Q. That it says county code, last name, first
24 name, date of birth, correct?

25 A. Last name, first name, date of birth, and



1 county, that's correct.

2 Q. Okay. And further up in the e-mail when
3 Ms. Richards is describing queries needed to be done,
4 she lists the same query, but she strikes out first
5 name, correct? And this is on 44399.

6 A. That's correct.

7 Q. So that would provide a less accurate -- sorry,
8 strike that.

9 A. It would provide a different set of data.

10 Q. It would provide a different set of data. And
11 it would provide a greater set of matches if you
12 eliminate one of the match criteria?

13 A. I believe you have the results that show that
14 in 972. For example, in 972, you have a query 5 --
15 excuse me. You have query 3 that removes the first
16 name, and the other query you were comparing against --
17 last name, first name, date of birth and county -- is
18 query 1, last name, first name, date of birth. So you
19 -- you're asking for a comparison between query 1 and
20 query 3, and I think you'll have your results there.

21 Q. What I'm asking is: As a general matter, if
22 you have a match that requires matching on four
23 different criteria, and then you eliminate one of those
24 criteria, so that you only need to match on three of the
25 four criteria, you will have a greater number of



1 matches, assuming that at least one of the no match is
2 as a result of the no match on the eliminated criteria?

3 MR. SWEETEN: Objection, calls for
4 speculation. Objection, assumes facts not in
5 evidence. And I think you're now asking him to make a
6 qualitative judgment based upon the matching criteria.
7 I think that's beyond the scope of the topic.

8 With all those objections, you can answer
9 the question as best as you can.

10 A. I think it's possible to leave it to the
11 numbers that you were provided, which have last name,
12 date of birth, the same county. The only difference
13 between 1 and 3, is 1 has a first name and query 3 does
14 not.

15 Q. (By Mr. Freeman) Okay. I guess what I'm trying
16 to get at is: By eliminating first name, the number of
17 matches went up from one to three, correct?

18 A. That is correct.

19 Q. Okay. Did anyone ever tell you the purpose of
20 eliminating first name?

21 A. No.

22 Q. It was just an instruction?

23 A. It was an instruction.

24 Q. Okay. And were you ever told that these
25 queries were emergencies?



1 A. I would draw the conclusion that yes, given
2 that subject line of the e-mail chain is, "Emergency,
3 Special Query."

4 Q. And then in an e-mail from Karen Richards to
5 Ann McGeehan, did Ms. Richards say she had talked to
6 Mr. Mendoza and impressed the urgency of the queries?

7 A. Is that also part of -- part of Line 971?

8 Q. It is.

9 A. I know you know the answer, but if you could
10 help direct me to what page it.

11 Q. On 44399. I'm sorry. It's not a quiz. It's
12 Wednesday.

13 A. Yes. Karen states on Wednesday, January 26th,
14 that she spoke to John on the phone and impressed the
15 urgency.

16 Q. Okay. Now, the e-mail chain on 4 -- I keep
17 saying 4. -- 972. If you look at Ms. Richards's e-mail
18 of January 27 -- we've previously discussed this -- but
19 she provides matching criteria and results for six
20 queries, correct?

21 A. Yes, that's correct.

22 Q. And she bases it on the total voters in the
23 state of 12,657,834 on the top of Page 2?

24 A. That is correct.

25 Q. And for each query, does she first eliminate a



1 number of voters who will have a TDL ID number in their
2 TEAM record?

3 A. That is correct, with the exception of query 2,
4 4, and 6, where she also eliminates individuals 70 years
5 or older.

6 Q. Okay. Thank you for that clarification.

7 And then are the remaining individuals
8 then matched to DPS records based on the set of named
9 criteria?

10 A. That is correct.

11 Q. And do the total unmatched records range
12 between approximately 504,000 and 845,000?

13 A. That is correct.

14 Q. Okay. And I know that we discussed this a
15 little bit when we were discussing who you met with
16 previously. But does the middle e-mail indicate that
17 Ms. McGeehan is typing up a summary of that data?

18 A. That is correct, it does.

19 Q. And does she state that she's typing up the
20 summary to provide the summary to legislative staff?

21 A. That is correct. Ann states, "I am typing up a
22 summary of this comparison to provide to legislative
23 staff."

24 Q. And I know that you testified to this, a
25 variation on this earlier, but what legislative staff



1 received that summary?

2 A. I am not aware of any legislative staff that
3 received this summary.

4 Q. Okay. Now, the top e-mail, does the top e-mail
5 state this Ms. McGeehan had talked to John Sepehri
6 concerning the summary?

7 A. I think she -- I believe that the first John
8 she's referring to is John Mendoza.

9 Q. Oh.

10 A. I believe the second John she's referring to,
11 in the section, is John Sepehri.

12 Q. Thank you for the clarification.

13 Does she state that she has attached a
14 draft summary that she plans to send to Coby and John?

15 A. Yes, she does.

16 Q. If you turn to the third page, is that a
17 summary of the queries?

18 A. Yes, it is.

19 Q. Okay. If you can please review in it total,
20 and then I'll ask you a couple of questions.

21 A. (Witness reviewing document.) All right. I'm
22 ready.

23 Q. Does the summary explain only two queries?

24 A. It explains query 3 and 5. And let me
25 verify. It may do 1 as well. The first paragraph after



37

1 the discussion does reference the number 2,814,965,
2 which is in query number 1. The second paragraph --

3 Q. Just a quick clarification. Isn't the
4 2,814,965 number the total number of voters who did not
5 list a Texas driver's license or a Texas ID number on
6 their voter registration application, so it's present in
7 query 1, 3, and 5, all the queries where the universe of
8 total voters was not filtered out to eliminate voters
9 age 70 and older?

10 A. That is right.

11 Q. Okay.

12 A. The second paragraph -- the second paragraph --
13 can you give me a couple of minutes to review this?

14 Q. Of course. Yes. Yes.

15 A. I know I can't write on this. Can I borrow a
16 pen?

17 Q. You can if you'd like. If you find it helpful,
18 you can write on it.

19 A. (Reviewing document and taking notes.)

20 Okay. All right. Reviewing Ann's
21 summary, it appears that the first query she references
22 is last name, first name, date of birth and same county.

23 Q. And that's query 1, correct?

24 A. And that corresponds to query 1. The second
25 portion with the second query was last name, date of



1 birth, and same county. And that's query 3. So she
2 references two of the six queries.

3 Q. And am I correct that her summary states that
4 the office performed two queries to obtain the estimated
5 range of voters who had not been issued a TDL ID
6 number? She does not say three or six, correct?

7 A. She does state, "We performed two queries to
8 obtain the estimated range of voters."

9 Q. And she does not reference any other analysis
10 performed beyond query 1 and query 3, correct?

11 A. I agree.

12 Q. Do you know why she did that, to the extent of
13 your knowledge?

14 A. I do not know.

15 Q. Okay. Did you receive any instruction to run
16 any queries other than the six queries listed here?

17 A. I don't recall any other queries.

18 Q. Do you know if Mr. Mendoza received any
19 instruction to run any queries other than the six
20 queries listed here?

21 A. I'm not aware of any additional queries.

22 Q. Okay. If you had received such an instruction,
23 is it your normal procedure to run those queries if you
24 were instructed to do so?

25 A. Yes.



1 Q. Okay. And with regard to this specific summary
2 document, are you aware of anyone who received it beyond
3 the recipients of the e-mail that has been marked
4 Exhibit 972?

5 A. I'm not aware of anyone outside the recipients
6 of 972.

7 Q. But it's possible, correct?

8 MR. SWEETEN: Objection, relevance. Don't
9 guess or speculate.

10 A. I do not know.

11 Q. (By Mr. Freeman) Okay. Do you know if anyone
12 provided an instruction not to send this information to
13 the legislature?

14 A. I have seen no such instruction.

15 Q. Okay. Besides the documents that you provided
16 today, what records of the analysis still exist?

17 A. We previously discussed that we do have some
18 old code.

19 Q. Okay.

20 A. We may be able to access. I'm not aware of any
21 other documents outside of what's been provided. Now, I
22 will say that I'm sure the e-mail stack you've received
23 over the last few weeks. But I'm not aware of any of
24 the relative documents in there.

25 Q. All I can ask is what you know.



1 A. Yeah. Thank you.

2 Q. I don't know if anyone fully knows what's in
3 e-mail stack that we've received in the last few weeks.

4 Okay. I apologize, again, that some of my
5 questions may dart and back and forth because, as you
6 know, we received these documents recently. I'm going
7 to try and keep it in some sort of a coherent narrative.

8 We talked about communications. I'd like
9 to speak a little bit about the content of the matches,
10 the technical content.

11 What database or databases were you using
12 as the universe of data on the DPS side of this match?

13 A. For the DPS, we used -- once a year, DPS
14 distribution, that data is typically used to develop
15 jury pools.

16 Q. Okay.

17 A. The data we used here is from October 2010.

18 Q. And is that known as the annual jury wheel
19 process?

20 A. Yes, sir.

21 Q. And is it produced in October every year?

22 A. It's -- I don't know.

23 Q. Okay. Is it typically produced in October?

24 A. Typically produced every year around October.

25 Q. Okay. On or about October?



1 A. Yes, sir. Thank you.

2 Q. Sure. And that's a production from the
3 driver's license database?

4 A. Yes.

5 Q. Did you use any match to the license to carry
6 database?

7 A. I'm not aware of any matches with the license
8 to carry database.

9 Q. Okay. Are you aware of what fields are
10 provided to the Office of the Secretary of State as part
11 the annual jury wheel process?

12 A. I'm aware of some of the basic fields which are
13 included in the matching criteria.

14 Q. Okay. If you go back to Ms. McGeehan's draft
15 summary, the last page of Exhibit 972, do you see that
16 she says -- do you see if she says, "Our copy of the DPS
17 database contains only those data field relevant for
18 voter registration: TDL number, the last name, first
19 name, middle name, name suffix, date of birth, date
20 created, last modified, and transaction type"?

21 A. I do see that.

22 Q. Do you additionally have county data?

23 A. I don't know. Oh, can I retract that?

24 Q. Of course.

25 A. I believe, yes, the county data is included.



1 Q. So there are additional fields beyond what was
2 listed Ms. McGeehan's letter, correct?

3 A. I state that since county was used as one of
4 the matching criteria.

5 Q. Are you aware of what other criteria you have
6 from DPS?

7 A. I don't know additional criteria came from DPS
8 in the jury file.

9 Q. Do you know if -- if you have data concerning
10 whether the driver's license is expired?

11 MR. SWEETEN: You're asking had. You're
12 talking about the January analysis?

13 MR. FREEMAN: I'm asking about the data
14 that he had available to him to perform the January
15 analysis.

16 MR. SWEETEN: All right.

17 A. I don't know if it includes expiration dates.

18 Q. (By Mr. Freeman) Okay. Do you know if you had
19 a field indicating whether a driver's license had been
20 suspended?

21 A. I do not know.

22 Q. Do you know if you had a field indicating
23 whether the individual at issue did not have a Texas
24 driver's license?

25 A. And we're speaking about the DPS data?



1 Q. We are.

2 A. I'd rather not speculate, but I don't know if
3 it had a non -- a nonTDL.

4 Q. Okay. Are you aware of whether the driver's
5 license database contains out-the-state drivers who
6 receive tickets in the state of Texas?

7 A. I do not know.

8 Q. Okay. Are you aware of whether the driver's
9 license data produced to the Office of the Secretary of
10 State indicates whether an individual is deceased?

11 A. I do not know.

12 Q. Do you know how many cases were in the driver's
13 license data that you received overall?

14 A. How many --

15 Q. Individual records.

16 A. I don't have record of that with me.

17 Q. Okay. And you don't know?

18 A. I do not know.

19 Q. Okay. Prior to matching the voter registration
20 data to the driver's license database, did you drop any
21 records from the driver license database?

22 A. I understand that there was some filtering on
23 the side of DPS. For example, felons gets filtered. So
24 there is filtering done, not by myself and my team, but
25 I'm not aware of any other filtering we did to the DPS



1 database.

2 Q. So as part of the jury wheel process, data is
3 filtered on the DPS side prior to providing it to SOS,
4 correct?

5 A. That is correct.

6 Q. And other than the felons, what other filters
7 are you aware of that are applied to the jury wheel
8 data?

9 A. I'd be speculating.

10 Q. Okay. I'm only asking what you're aware of.
11 Do you know DPS filters for felons, what
12 criteria they use?

13 MR. SWEETEN: Objection, outside the
14 scope.

15 MR. FREEMAN: Mr. Sweeten, I'm asking
16 about the data that he used to perform the match, and I
17 think we're well within the scope.

18 MR. SWEETEN: That's not what you asked.
19 You said, "Do you know how DPS filters," and that's a
20 present tense. We're here talking about the analysis
21 from January of 2011. So, if you want to ask about
22 whether he knew that about that data, then that's a fair
23 question, and I'll allow him to answer that.

24 MR. FREEMAN: All right.

25 MR. SWEETEN: I think if you're asking



1 general, sort of procedure, I think --

2 MR. FREEMAN: I'm happy to change the
3 tense of my question.

4 MR. SWEETEN: But in any event, I think
5 his answer was no.

6 THE WITNESS: No.

7 MR. FREEMAN: Okay. That's solves the
8 problem.

9 MR. SWEETEN: It does. It solves a lot of
10 problems between us.

11 Q. (By Mr. Freeman) Did you, prior to running the
12 match, search for any duplicates within the DL side of
13 the database?

14 A. Not that I'm aware of.

15 Q. Okay.

16 MR. SWEETEN: Can we have a restroom break
17 if we're at a good spot?

18 MR. FREEMAN: Yeah. Fine.

19 (Recess from 4:19 p.m to 4:34 p.m.)

20 MR. FREEMAN: If you could mark this
21 document as Exhibit 973.

22 (U.S. Exhibit 973 marked for
23 identification.)

24 Q. (By Mr. Freeman) Now, I'm not going to ask you
25 any questions about the actual time frame of this



1 e-mail, because it's outside the scope of this
2 deposition. What I am going to ask about is whether you
3 similarly loaded additional records into the jury wheel
4 data before performing this match, the match at issue in
5 January?

6 MR. SWEETEN: Dan, what you're trying to
7 do is, you're asking, did he do something similar to
8 what this e-mail, which is outside the scope, was.

9 I don't mind if you want to ask him about
10 the analysis of January, but I think that your question,
11 it relates to something, you know, that occurred at a
12 later time than what he's here on Topic 8 to testify
13 to. So if you want to ask him about what he did with
14 the jury wheel, I have no issue with that, but he's not
15 going to compare something that may have happened later
16 that's outside the scope of the topic.

17 MR. FREEMAN: All I was trying to do is
18 use this to refresh his recollection about the
19 possibility, and so if you want me to not use it as a
20 framework try to and help him, that's fine.

21 MR. SWEETEN: Well, he's seen it. I mean,
22 I would prefer if you'd just ask him if he did
23 something, the analysis, whatever.

24 MR. FREEMAN: That's fine.

25 Q. (By Mr. Freeman) Did you load any additional



1 records into the jury wheel data prior to performing the
2 match in January 2011?

3 A. I'm not aware of any additional records that
4 were added.

5 Q. Okay. What is test data?

6 A. Where do you reference test data?

7 (U.S. Exhibit 974 marked for
8 identification.)

9 MR. FREEMAN: Okay. I'm going to mark
10 this as U.S. Exhibit 974. And I am putting it in front
11 of the witness only for the purposes of refreshing the
12 witness's recollection with regarding to a particular
13 term and not with regard to anything that happened in
14 November of 2011.

15 Q. (By Mr. Freeman) So if you could look at
16 Page 3.

17 A. I got a question. I can't share this with
18 counsel?

19 Q. Oh, he has a copy.

20 MR. SWEETEN: He gave it to me, yeah.

21 I mean, again, Dan, we're going outside
22 the scope here. You're showing him an e-mail from
23 November 29th, 2011, it appears. The scope of the
24 deposition is any analysis performed prior to May 27th.
25 He is here to answer questions about an analysis that I



1 think you've quizzed him on in January of 2011.

2 If you want to ask him about test data
3 with respect to the analysis in January, I think that's
4 appropriate, and I'll let that go on. But I don't --
5 you know, we're not going to get in beyond the scope of
6 Topic 8.

7 MR. FREEMAN: And I will ask no questions
8 with regard to this match. I'm only trying to refresh
9 the witness's recollection with regard to a concept, and
10 then apply that concept to the match. So I don't think
11 we should have any problems.

12 Q. (By Mr. Freeman) Do you understand?

13 A. I understand.

14 Q. Okay.

15 A. With regards to the January 2011 -- or the
16 October 2010 --

17 Q. Data.

18 A. -- data, I don't recall if test data was
19 removed or remained. That's a DPS term.

20 Q. Okay. Prior to the match, did you filter the
21 DPS data to eliminate expired drivers' licenses?

22 A. For purposes of January 2011, I don't recall
23 doing that.

24 Q. Okay. Did you filter for suspended drivers'
25 licenses?



1 A. I don't recall that additional filtering.

2 MR. FREEMAN: I'll mark this as
3 Exhibit 975.

4 (U.S. Exhibit 975 marked for
5 identification.)

6 Q. (By Mr. Freeman) Take a moment to review it.

7 A. (Witness reviewing document.)

8 Q. Have you seen that e-mail before?

9 A. No, I have not.

10 Q. At the time that you performed the analysis or
11 supervised the analysis in January of 2011, were you
12 aware of any effect that suspension of a license would
13 have on an individual's ability to vote under the
14 legislation that was then being considered?

15 A. No, I was not.

16 Q. Did you filter out for individuals who did not
17 have a Texas driver's license or a Texas ID but were in
18 the driver's license database?

19 A. I don't recall filtering for those, for the
20 driver's license. You said no driver's license?

21 Q. No Texas ID card, but were in the database.

22 A. I don't recall any of that filtering.

23 Q. Did you filter out individuals who were marked
24 in the Texas driver's license database as being
25 deceased?



1 A. See, I don't recall that additional filtering,
2 if any, were used upon the DPS database.

3 Q. Okay. Did you ask for any additional fields
4 for the driver's license database related to deceased
5 individuals, individuals with suspended licenses, or
6 individuals with no ID?

7 A. I don't recall any additional fields being
8 asked beyond what's provided in the October 2010
9 database.

10 Q. Okay. Did you filter out any individuals with
11 invalid social security numbers?

12 A. I don't recall ever filtering out based on
13 social security number.

14 Q. And the last one these: Did you filter out any
15 individuals based on an invalid county code?

16 A. I do not recall filtering based on an invalid
17 county code.

18 Q. Okay. So let's move over to the social --
19 excuse me -- the Secretary of State's Office side of the
20 data match. What database or databases did you start as
21 the starting universe of data on the Secretary of
22 State's side?

23 A. I don't recall the specific period of the
24 database, but traditionally, we'll run from production,
25 which is the latest live database.



51

1 Q. Okay. So that's part of the TEAM database?

2 A. Yes.

3 Q. And is that sort of a snapshot?

4 A. Every time you run a query, you'll get new
5 data, the latest data.

6 Q. Okay. Do you know what date the data
7 extraction was that was used for the matches here?

8 A. It would be speculation, but -- and I'll leave
9 it at that.

10 Q. Was it on or about January 25th?

11 A. Yes.

12 Q. Okay. Was the same data extraction used for
13 all six queries?

14 A. Judging from the results, I would say no.

15 Q. Isn't it the case that the total number of
16 voters in the state in each of the six queries is the
17 same?

18 A. The key that I'm triggering off of is voters
19 with no TDL ID number varies.

20 Q. Doesn't it vary only based on whether a filter
21 was run for individuals 70 and over?

22 A. No.

23 Q. Pardon me?

24 A. No. For example, query 1 result is different
25 than query 3 for no TDL number.



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 202.296.8652

Suite 350
1425 K Street NW
Washington, DC 20005
www.esquiresolutions.com

1 MR. FREEMAN: And for the record, the
2 witness is pointing to Page 2 of Exhibit U.S. 972. And
3 for the record, the witness is quite right.

4 Q. (By Mr. Freeman) Okay. If you can turn back to
5 Exhibit 971. Do you see the first e-mail from
6 Mr. Mendoza to Ms. Richards? Do you see the postscript
7 to that e-mail?

8 A. "I went ahead and added the VR numbers, but as
9 you mentioned, it is a moving target. These two have
10 slightly different VR numbers."

11 Q. So is it the case that there were slightly
12 different data extractions for the six runs?

13 A. I would speculate that that would be the case,
14 but I'm not -- I can't swear to it.

15 Q. Okay. But logically, based on your experience,
16 if Mr. Mendoza said that it was a moving target and that
17 totals were slightly different for each query, would
18 that lead you to conclude the most likely outcome is
19 that there were slightly different data extractions for
20 each of these queries?

21 A. Which is very typical of -- which is very
22 typical of running queries on a live database.

23 Q. Okay. Thank you. And thank you for working
24 through that with me. These documents are all new to me
25 as well.



1 Are you aware of what tables within the
2 TEAM database were used for this match?

3 A. I don't recall the specific tables that were
4 used.

5 Q. Do you know what fields were used in the match
6 process?

7 A. At a minimum, it would be the fields that are
8 dictated in the match. I'm not aware of additional
9 fields that were used.

10 Q. So that would be TDL ID number, correct?

11 A. For the initial one, yes, that's correct. For
12 the initial filtering, that is correct.

13 Q. Okay. And then in total, among the six
14 queries, the additional fields would be last name, first
15 name, date of birth, county, age, which is likely
16 derived from date of birth?

17 A. That's correct.

18 Q. And that's all?

19 A. That is correct.

20 Q. Okay. Did you receive any instruction to run
21 the queries on a frozen extract of the database so that
22 they would be based on the same total number of voters?

23 A. I don't recall such instruction.

24 Q. Did you consider running the queries on a
25 frozen database?



1 A. I do not recall.

2 Q. Okay. And were any cases dropped from the SOS
3 side of the analysis prior to the match, other than the
4 filter for individuals with a TDL or ID number?

5 A. The only other criteria is must be an active or
6 a suspense voter.

7 Q. Okay. So individuals who are in the live check
8 status were not part of the match?

9 A. Give me a minute. I do not recall, but I see
10 some reference on Exhibit 971 where the analyst did not
11 find any live check match records.

12 Q. Okay. So the alternative to active and
13 suspense is an individual in a live check status?

14 A. Possibly cancelled.

15 Q. Okay. And what is your understanding of what
16 live check status means?

17 A. Live check status is the part of the process
18 where we're confirming the information on the
19 individual.

20 Q. Okay. And what is a cancelled voter?

21 A. A cancelled voter is a voter that can no longer
22 vote.

23 Q. And so is that someone who was once an active
24 voter but is no longer on the rolls?

25 A. I think that might be a fair question to ask



1 the Elections Division.

2 Q. I'm asking for your understanding.

3 MR. SWEETEN: Don't guess or speculate.

4 A. Okay. I'm not going to guess.

5 Q. (By Mr. Freeman) Okay. Are they in a separate
6 cancelled voter table within the database?

7 A. I do not know.

8 Q. Is there a cancelled voter field?

9 A. I do not know.

10 Q. Within the database, how do you identify a
11 cancelled voter?

12 MR. SWEETEN: Are we talking about his
13 analysis in January of 2011?

14 MR. FREEMAN: I'm trying to understand how
15 he excluded cancelled voters from the analysis.

16 A. I would need to review the code --

17 Q. (By Mr. Freeman) Okay.

18 A. -- again. Keep in mind that there's tens of
19 thousands of fields in this database, so for me to talk
20 about individual fields --

21 Q. That's fine.

22 A. -- I'd have to go investigate.

23 Q. I understand your argument.

24 But cancelled voters were not included in
25 your analysis, correct?



1 A. That's correct.

2 Q. Okay. Did you search for duplicates within the
3 database prior to performing the match?

4 A. I don't recall searching for duplicates.

5 Q. And again, within the SOS side of things, did
6 you filter for any particular criteria prior to
7 performing the match, other than the TDL ID number being
8 present?

9 A. I do not recall any other filtering.

10 Q. Okay. I'm just going to run through real
11 quickly and say no, then we can move on.

12 Did you filter for test data?

13 A. On the SOS --

14 Q. Yes.

15 A. -- database? I don't recall any test data.

16 Q. Did you filter to see whether "test" was the
17 entry in any fields prior to performing the match, such
18 as a first name being test or a last name being test?

19 A. I don't believe we filtered on test.

20 Q. Did you include suspense voters in your match?

21 A. Yes.

22 Q. In terms of the removal of individuals who
23 provided a driver's license or a Texas ID number at the
24 time of registration, did you consider this a form of
25 matching, or did you consider this simply a filter?



1 A. I'm trying to -- maybe you could help
2 distinguish the difference between the two.

3 Q. Sure. Did you consider, when performing the
4 match, that an individual who had listed a Texas
5 driver's license or a Texas ID number was an individual
6 who had a valid current Texas driver's license?

7 A. I'll have to review the code to determine.

8 Q. Are you aware of whether the presence of a
9 Texas driver's license number within the TEAM database
10 is an indication of whether the driver's license is
11 current and valid?

12 A. I'm not aware if that's a pure indication if
13 it's a current valid driver's license.

14 Q. Is the presence of a Texas driver's license
15 number in the TEAM database an indication of whether
16 that driver's license actually matches the individual?

17 A. I'm not aware if that's strong indicator that
18 that matches the individual.

19 Q. Are you aware of whether the presence of a
20 Texas driver's license number in the TEAM database is an
21 indication of whether that driver's license has been
22 revoked?

23 A. I would have no indication.

24 Q. Okay. This was simply a filter that you were
25 instructed to impose, correct?



1 A. That's correct.

2 Q. Okay. A couple more of these easy filter
3 questions for you. Did you filter out individuals who
4 are marked in the TEAM database as being deceased?

5 A. I do not recall removing deceased.

6 Q. Is there an indicator in the TEAM database of
7 whether individuals are deceased?

8 A. For the sake of this exercise, I'm not aware if
9 that was used. We have -- so I'm not aware if deceased
10 records were considered in this.

11 Q. Okay. Is there an indicator, however, in the
12 TEAM database of whether individuals are deceased?

13 A. Yes.

14 Q. How is that determined?

15 MR. SWEETEN: That's outside the scope.
16 I'm going to object to the question as outside the
17 scope. You're asking how a field is populated, the
18 determination that goes in to it. That was subject to a
19 30(b)(6) motion -- I mean deposition. We've also -- I
20 mean, this isn't a discovery deposition. He's here for
21 Topic 8, so I think you're outside the scope of that
22 question.

23 MR. FREEMAN: Are you instructing him not
24 to answer?

25 MR. SWEETEN: I mean, you can answer this



1 question if you know, but, I mean, we're getting far
2 afield, Counsel, I think, so, I'm going to maintain my
3 objection, obviously.

4 A. I'd prefer to review the material before
5 answering that question.

6 Q. (By Mr. Freeman) You're not aware?

7 A. I'm not aware.

8 Q. Again, solving me and Mr. Sweeten's problems.

9 A. Yeah.

10 Q. Was there any filter for invalid social
11 security numbers?

12 A. I'm not aware of any social security number
13 filtering.

14 Q. Any filter for individuals with an unrealistic
15 age?

16 A. I'm not aware of any filtering for unrealistic
17 age.

18 Q. Any filter for an invalid county code?

19 A. I'm not aware of any filters for invalid county
20 codes.

21 Q. Any other filters?

22 A. I'm not aware of any other filters.

23 Q. Okay. Great.

24 So just very quickly, if we can proceed
25 through the six matches. There were six, correct?



60

1 A. That is correct.

2 MR. FREEMAN: Mark this as U.S. 976.

3 (U.S. Exhibit 976 marked for
4 identification.)

5 Q. (By Mr. Freeman) Is this an e-mail conveying
6 the query 1 results?

7 A. The criteria looks appropriate, but I'd have to
8 check the numbers to verify that's it an exact match of
9 query 1 in the summary.

10 Q. Okay. But you've seen this e-mail before,
11 correct?

12 A. To be honest, I've seen the e-mail, but I
13 haven't seen the attachment.

14 Q. Okay. You're cc'd on this e-mail, right?

15 A. That is correct.

16 Q. And you normally read e-mails that you receive
17 from Mr. Mendoza?

18 A. Yes, I do.

19 Q. Okay. And according to the -- strike that.

20 Just to understand the process of the
21 match, the first step was to remove the individuals who
22 have a Texas driver's license or ID, and that is
23 indicated in Columns C and D of the attached
24 spreadsheet, correct?

25 A. To be honest, I'd have to go back and look at



1 the numbers, because both CD and EF all say without TDL
2 ID. So let me make sure I fully understand what these
3 numbers represent.

4 Q. If you look at the last page of Exhibit 976, do
5 you see Totals?

6 A. I do see Totals.

7 Q. And am I correct that these totals, if you add
8 up Column C and Column D, that you get 2,814,965?

9 A. That's correct.

10 Q. And is that the number of voters with no TDL or
11 ID, both active and suspense and listed in query 1?

12 A. That does match query 1.

13 Q. Okay. If you add the second, E and F totals,
14 am I correct that you'd get 1,970,252?

15 A. That's correct, which matches query 1.

16 Q. And that's the number who do match. So am I
17 correct that this spreadsheet does not provide the total
18 number of voters that do not match a DPS record?

19 A. This spreadsheet does not, but -- are you doing
20 the same math I'm doing right now?

21 Q. I'm just waiting for you to do it.

22 A. With this information, that is correct.

23 Q. Okay. So if I were to -- or you were to
24 subtract the total of Column CD -- pardon me -- the
25 total of Column EF from the total of Column CD, you



1 would get the numbers of voters who neither have a TDL
2 ID number in their TEAM entry nor were matched to a DPS
3 record under query 1, correct?

4 A. That is correct.

5 Q. Okay. I am proud of both of us for still
6 having arithmetic skills in this age of omnipresent
7 calculators.

8 Now, you did not, in performing this
9 match, also assess whether an individual was reported in
10 the TEAM database as having a Spanish surname, correct?

11 A. I don't recall doing anything with Spanish
12 surnames.

13 Q. Are Spanish surname analyses easy to do,
14 perform when using the TEAM database?

15 A. They weren't part of this January effort.

16 Q. Sure. But is it just a matter of filtering for
17 one field, a match or a no match, essentially, to that
18 field?

19 A. I'd have to go back and do some investigation,
20 but parts of -- I don't know --

21 Q. Okay.

22 A. -- is the answer.

23 Q. But no one asked you to perform that analysis,
24 so you didn't?

25 A. No. No.



1 Q. And you wouldn't ever perform that analysis on
2 your own, you would just have -- you would have to be
3 asked to do it by someone on the business side?

4 A. That's correct.

5 Q. And is that true with all six of the queries?

6 A. That is correct.

7 Q. Okay. Are you aware of whether anyone received
8 this attachment other than Ms. Richards and yourself?

9 A. Potentially, but I see the e-mail was forwarded
10 from Mrs. Richards to Ann McGeehan.

11 Q. And that's --

12 A. The second.

13 Q. -- the second to the last e-mail in Exhibit --

14 A. 971.

15 Q. -- 971?

16 A. So that's all the information I have on that.

17 Q. Okay.

18 MR. FREEMAN: Mark this as U.S.

19 Exhibit 977.

20 (U.S. Exhibit 977 marked for
21 identification.)

22 Q. (By Mr. Freeman) Have you seen this e-mail
23 before?

24 A. Yes.

25 Q. What is this e-mail?



1 A. This e-mail is similar to the previous exhibit,
2 except revision is made to query the voters that are 70
3 -- younger than 70 years of age.

4 Q. Okay.

5 A. So it's an e-mail.

6 Q. And did you take a look at what the totals were
7 again for Column CD and Columns EF?

8 A. I just looked at CD.

9 Q. And was the total for Column C and D, which are
10 the without TDL ID columns, is that 2,096,789?

11 A. It is.

12 Q. And is that actually the total for query 6,
13 which does not match for same county?

14 A. And let me -- let me check the second number to
15 make sure that is -- I'd have to go back over with you,
16 because the first number appears to match query 6.

17 Q. But the second number doesn't match any of the
18 queries, correct?

19 A. That is correct.

20 Q. Okay. But it appears that this is simply a
21 filter of query 1, but the -- sorry, strike that. Let
22 me try and get that out making a little bit of sense.

23 From the e-mail chain, does it appear that
24 the only change that Mr. Mendoza made from the first
25 query is to eliminate the voters that are 70 years of



1 age or older?

2 A. Based solely what's in the e-mail --

3 Q. Okay.

4 A. -- I agree.

5 Q. And that would be query 2, correct?

6 A. I do not know if this was run as -- it's -- the
7 criteria -- the criteria appears -- to be honest, I'm
8 not sure if this is query 2.

9 Q. Okay. The criteria appear to match query 2,
10 correct?

11 A. Based strictly on this e-mail chain.

12 Q. Okay. And the time of this e-mail is 3:35 p.m.
13 on January 25th?

14 A. That is correct.

15 Q. And that's only two and a half hours after the
16 query 1 e-mail that we previously discussed was sent,
17 correct?

18 A. That is correct.

19 Q. Okay. So it's possible that some of the totals
20 in Exhibit 972, on the second page, are not quite right,
21 or that this spreadsheet is not quite right?

22 A. I'd have to review why there's a difference
23 between the spreadsheet and the final numbers.

24 Q. But there's some kind of discrepancy?

25 A. There is a discrepancy in the numbers with the



1 two e-mails that have been provided.

2 Q. Okay. And you're not certain of the basis for
3 that discrepancy?

4 A. Not without investigating further.

5 Q. Okay. At this time?

6 A. At this time.

7 Q. Great. Were you given a reason why a filter
8 should be performed to take out the voters 70 years of
9 age or older, or simply instructed to do so?

10 A. Instructed to do so.

11 Q. Okay. Just to clean up the record, because I
12 should have asked this before. Are the numbers for the
13 totals of C and -- Column C and Column D on Exhibit 977,
14 do they approximately equal the number of voters without
15 a Texas driver's license number or Texas ID number in
16 the TEAM database once you exempt individuals 70 or
17 older?

18 A. That is correct.

19 Q. Okay.

20 A. Keeping in mind that it's active and suspense
21 voters.

22 Q. But query 2, query 4, and query 6 all have
23 approximately 297 -- excuse me -- 2,097,000 individuals
24 who are under the age of 70 and lack a TDL or ID number?

25 A. That's what the results are indicating.



1 Q. Okay. And Columns E and F appear to be the
2 result of a number of voters that matched a DPS record
3 in one of the under 70 queries, although it doesn't
4 quite match any of the three such totals found for
5 queries 2, 4, and 6 in Exhibit 972?

6 A. That is true.

7 Q. Okay. And just to clear up for the record, the
8 six queries, because I don't think we ever read them
9 in. The first query was last name, first name, date of
10 birth, and same county, correct, for matching criteria?

11 A. That is correct.

12 Q. The second is the same as the first, but
13 exempts individuals 70 and older, correct?

14 A. That is correct.

15 Q. The third is last name, date of birth, and same
16 county?

17 A. Correct.

18 Q. The fourth is the same as that, but exempts
19 individuals 70 and older?

20 A. Correct.

21 Q. The fifth is the last name, first name, and
22 date of birth?

23 A. Correct.

24 Q. And the sixth is the same as the fifth but
25 exempting individuals 70 and older?



1 A. Correct.

2 Q. Okay. When running these queries, did you only
3 take out individuals on the TEAM side if there was a
4 unique one-to-one match on the DL side? Does that make
5 sense?

6 A. You could try repeating the question.

7 Q. Sure. What I mean by unique matches, if there
8 are several John Smiths born on June 1st, 1950, in the
9 both the voter registration database and the DPS
10 database, would you have considered them all to be
11 matched?

12 MR. SWEETEN: According to the analysis?

13 Q. (By Mr. Freeman) When running these queries?
14 For example, in query 5, last name, first name, date of
15 birth.

16 A. I'd have to go back and review the code to make
17 sure that would match unique and not multiple matches.

18 Q. So you're not sure at this time?

19 A. I'm not sure at this time.

20 Q. Okay. And if there were several John Smiths
21 born on June 1st, 1950 in the voter registration
22 database and only one John Smith born on June 1st, 1950
23 in the driver's license database, do you know if the
24 code would have considered all those June 1st, 1950 John
25 Smiths in the voter registration side to be matched?



1 A. I'm not sure. I'd have to review the code.

2 Q. Okay.

3 A. For those scenarios.

4 Q. Okay. What is fuzzy matching?

5 A. I can tell you what fuzzy matching is, but I
6 don't believe we did, or I don't recall doing any fuzzy
7 matching in this exercise.

8 Q. Well, you skipped to the second question and
9 avoided the name for the first. That's fine.

10 So just to clarify, there was no form of
11 fuzzy matching whatsoever with regard to the last name
12 or date of birth?

13 A. No, there wasn't fuzzy matching.

14 Q. And was there any kind of substitution matching
15 for a space or a hyphen in the last name field?

16 A. I don't recall any special handling of unique
17 characters.

18 Q. Okay. So for example, if the voter
19 registration database had someone with the last name
20 Sandoval-Martinez, and the driver's license database had
21 Sandoval space Martinez, would that be a no match or
22 would that be a match?

23 A. I'd rather hold off and look at the code and
24 give you an answer.

25 Q. Okay. So you don't know at this time?



1 A. I do not know at this time.

2 Q. If you don't know, you don't know.

3 Did you use strict case matching?

4 A. I do not know at this time.

5 Q. Are there any sorts of rules to the TEAM
6 database that requires that the first letter of a last
7 name or first name entry be capitalized and that the
8 remaining letters being lower case?

9 MR. SWEETEN: I think we're outside the
10 scope here, so I would object, outside the scope.

11 Q. (By Mr. Freeman) You can answer.

12 A. I'm going to follow counsel.

13 Q. But as long as counsel doesn't instruct you not
14 to answer --

15 A. Okay.

16 Q. -- to the extent that you have knowledge, you
17 do need to answer.

18 A. Okay. I do not know.

19 Q. Okay. That's fine. The only reason I'm asking
20 the question is to try and understand the nature of the
21 match and work around your lack of knowledge concerning
22 case matching. I'm trying to eliminate the problem.

23 Was there any special rule for treating
24 individuals who were listed with January 1st as their
25 birth date?



1 A. I don't recall any special scenarios. No, I'm
2 not aware of any special handling of January 1st birth
3 dates.

4 Q. Okay. Was the output of the query the
5 spreadsheet, the type of spreadsheet that was attached
6 to Mr. Mendoza's January 25th e-mails?

7 A. I'd have to go back and verify the attachment
8 you shared, but that's -- that's one potential output.

9 Q. What are the other potential outputs?

10 A. It could be a -- I'd be speculating, but
11 potentially, it could be an Oracle output --

12 Q. Okay.

13 A. -- and converted to the spreadsheet.

14 Q. Okay. And that's based on the systems that the
15 SOS has?

16 A. Yes.

17 Q. Great. Was it possible that the output
18 actually produced the names or records for all
19 nonmatched individuals? Do you know if it did?

20 A. No, I do not know if it did.

21 Q. So you're not aware at all of the format of the
22 output?

23 A. No, I am not.

24 Q. And were you instructed to filter or categorize
25 the data at all based on SSVR?



1 A. SSVR?

2 Q. The Spanish surname voter registration.

3 A. No, no such instruction.

4 Q. And were you instructed or did you -- I'll ask
5 one at a time. I'm sorry. Were you instructed to
6 filter or categorize by ethnicity collected by DPS?

7 A. No, it was not asked.

8 Q. And did you filter by ethnicity collected by
9 DPS?

10 A. No, we did not filter.

11 Q. Or categorize?

12 A. Or categorize.

13 Q. Thank you. That was my question, not your
14 answer that was at fault.

15 MR. FREEMAN: Okay. We'll take a brief
16 recess, just to go off the record, and then we can
17 probably wrap this up pretty quickly.

18 (Recess from 5:28 p.m. to 5:49 p.m.)

19 MR. FREEMAN: Back on the record after a
20 medium-length break. I appreciate everyone's patience.

21 Q. (By Mr. Freeman) Mr. Guyette, were you and
22 your counsel able to discuss obtaining the old code
23 during the break? You had said previously you might --

24 MR. SWEETEN: We did not, and if you want
25 us to do that, I mean, I don't know what's involved, but



1 we can do it after your questioning.

2 MR. FREEMAN: That's fine.

3 Q. (By Mr. Freeman) Are you aware of whether there
4 was any follow-up communication with Senator Williams
5 after the question that he asked, either conveying or
6 not conveying the data?

7 A. I have no idea. I'm not aware.

8 Q. Have you ever conducted analysis concerning the
9 Spanish surname component of the TEAM database?

10 A. In this January?

11 Q. In general.

12 A. So can you repeat that question? I want to
13 make sure --

14 Q. Have you ever conducted any analysis breaking
15 out into categories those voters with Spanish surname
16 and those who do not have a Spanish surname?

17 MR. SWEETEN: If you can confine your
18 answer to the 2005 to May 27th, 2011 time frame that's
19 in Topic 8. I'm going to instruct you to confine your
20 answer to that time period.

21 A. I'm not aware of any analysis during that time
22 frame.

23 Q. (By Mr. Freeman) But have you ever personally
24 conducted, for any purpose -- that's fine, during that
25 time frame your counsel has instructed you. But have



1 you ever conducted any analysis related to Spanish
2 surname code or voters with Spanish surnames?

3 A. I'm not aware of any related during this time
4 period.

5 Q. What do you mean by related?

6 A. There may have been some analysis done, but I
7 have to go back and do a lot of digging and find out
8 what it was.

9 Q. You don't recall personally --

10 A. I don't recall anything, no.

11 Q. Are you aware that during her deposition in
12 this case, Ann McGeehan testified that such analysis was
13 routinely performed in your office?

14 A. I wasn't aware of Ann's testimony.

15 Q. Okay.

16 A. And there are reports, and I can get you that
17 information. But with regards to voter ID, I'm not
18 aware --

19 Q. Okay.

20 A. -- of anything that was --

21 Q. Is there another individual in your office who
22 generally does analysis related to Spanish surname to
23 voters?

24 A. There -- it would be limited to a very small
25 number of individuals that would.



1 Q. Who are those individuals?

2 A. Primarily John Mendoza, the gentleman that has
3 been on some of these e-mails, that would have knowledge
4 of that.

5 Q. And he did -- he did these queries here, right,
6 that we've been discussing today?

7 A. That is correct.

8 Q. Okay. Was the purpose of this match ever
9 explained to you?

10 A. Primarily just focusing on the guidance I've
11 got from Elections. Didn't ask why.

12 Q. They just said, we need you to run the
13 following data?

14 A. Yeah, the following matches and data. There
15 may be some reference -- I think there was some
16 reference in the e-mails to content. But our focus was
17 on the direction given by the Elections Division.

18 Q. Is it your ordinary practice not to ask the
19 purpose of a particular data request?

20 A. It depends on the case.

21 Q. If you ask the purpose of the data request,
22 aren't you better able to suggest particular ways for
23 the analysis to be run?

24 A. It was pretty clear cut, the directions we were
25 given in this case. In many cases, we don't have that



1 clear guidance. So we do have to ask and work with the
2 business partner.

3 Q. So you don't know what the purpose of this
4 match was? Sorry, strike that.

5 A. Yeah.

6 Q. What was the purpose of this match?

7 A. The purpose of the match is -- was -- it would
8 be speculation on what they were going for on this --
9 the purpose of the match.

10 Q. What is your understanding of the purpose of
11 this match, to the extent that you have one?

12 MR. SWEETEN: Objection, asked and
13 answered.

14 Q. (By Mr. Freeman) You can answer.

15 A. Okay. The purpose was the number of voters
16 without TDL number, and then which ones matched and
17 didn't match or how many matched or didn't match the DPS
18 record. We get numerous asks for queries.

19 Q. Do you feel that that match was achieved?

20 A. That seems like speculation to me. I mean, I
21 believe --

22 MR. SWEETEN: Objection, vague. You can
23 answer.

24 A. I believe that we built the queries to get the
25 results for what was being asked.



1 Q. (By Mr. Freeman) And do you think that those
2 queries provided the results that you were asked to
3 provide?

4 A. I believe they do.

5 Q. Are there any shortcomings of which you're
6 aware?

7 MR. SWEETEN: Objection, foundation.
8 Objection, calls for speculation.

9 Q. (By Mr. Freeman) You can answer.

10 A. I think it would be --

11 MR. SWEETEN: Objection, outside the
12 scope. Go ahead, you can answer. You can answer.

13 A. Okay. I'd like to go back and research the
14 spreadsheet discrepancy that you mentioned.

15 Q. (By Mr. Freeman) Uh-huh.

16 A. And go back and become more familiar with the
17 code to make sure that, to answer some of the scenarios
18 you built. But I'm not aware of any other outstanding
19 issues.

20 Q. Okay. Did any problems come up while the code
21 was being built or while you were conducting the
22 analysis?

23 A. I'm not aware of any problems.

24 Q. Anything related to any compatibility between
25 the fields in the driver's license database and fields



1 in the TEAM database?

2 A. I'm not aware of any problems.

3 Q. Any problems related to corruption of the data
4 or ability to read the data?

5 A. No, I'm not aware of any problems.

6 Q. And on the DL side was data that you had
7 routinely used for jury wheel purposes, correct?

8 A. That is correct.

9 Q. Are you confident that the match between the
10 data on both sides was accurate?

11 A. Per the guidance given by the business
12 division, I believe that the matches met the criteria.

13 Q. Are you confident, per the criteria given by
14 the business side, that the match was complete?

15 A. That the match was complete?

16 MR. SWEETEN: Objection, asked and
17 answered. Objection, foundation. You can answer.

18 A. Can you elaborate on that?

19 Q. (By Mr. Freeman) Sure. Are you confident that
20 the match found all of the matching driver's license
21 records pursuant to the criteria that you were given?

22 A. To the best of my knowledge, I believe it fit
23 the criteria that was given.

24 Q. Okay. Do you believe that the match is
25 misleading in any way?



1 MR. SWEETEN: Objection, vague.

2 THE WITNESS: I can still answer, though?

3 MR. SWEETEN: Yeah. And objection to
4 form. Go ahead.

5 THE WITNESS: Okay.

6 MR. SWEETEN: Objection to foundation. Go
7 ahead.

8 A. I'm sorry. Repeat the question one more time.

9 Q. (By Mr. Freeman) Do you believe that the match
10 is misleading in any way?

11 MR. SWEETEN: Same objection.

12 A. With regards to the criteria that was provided,
13 I believe we met the criteria.

14 Q. (By Mr. Freeman) Did you have sufficient
15 confidence in the match such that you were willing to
16 have it shared with the rest of the Office of the
17 Secretary of State?

18 A. That wasn't my judgment to make. This
19 information was provided to Elections Division to make
20 that judgment.

21 Q. Okay. Did you have sufficient confidence in
22 the match such that you were willing to share it with
23 Ms. McGeehan?

24 A. Yes.

25 Q. And the decision after that point was up to



1 her?

2 A. That is correct.

3 Q. Or her supervisors?

4 A. That is correct.

5 Q. But you wouldn't have had any qualms about it
6 being shared beyond the division, correct?

7 A. Beyond the IT division or beyond Elections?

8 Q. I'm sorry. Beyond Elections.

9 MR. SWEETEN: Objection, relevance.

10 A. For the data that was produced and the criteria
11 that we fulfilled, I didn't have an objection with it.

12 Q. (By Mr. Freeman) Okay. Is this type of match
13 similar to the match that is performed in the live check
14 process, to the extent of your knowledge?

15 MR. SWEETEN: Objection, vague.

16 A. I'd have to revisit the live check process to
17 be able to answer that.

18 Q. (By Mr. Freeman) Is there any other type of
19 matching that goes on between the TEAM database and
20 external databases, to the extent of your knowledge?

21 MR. SWEETEN: Are you talking about within
22 the time period of Topic 8?

23 MR. FREEMAN: Sure. Let's talk about
24 within the time period of Topic 8. That's fine.

25 A. There are possible matches. There's matches to



1 verify address of postal office, make sure of correct
2 format. I'd have to do some more investigation to find
3 out if there's any other matches that are performed
4 generally throughout the ongoing time.

5 Q. (By Mr. Freeman) And you rely on that -- that
6 postal match, you use that moving forward after the
7 match has been run?

8 A. No. Once the match is run, you have your
9 results.

10 Q. Okay.

11 A. So, no, it's not done in addition to this
12 match.

13 Q. Yes. No, that -- that postal match you were
14 talking about, the Office of the Secretary of State uses
15 the results of that for some purpose, correct?

16 A. There are -- there is quite a few matches.
17 There's deceased matching. There's postal match.
18 There's several matches that are pretty much outside the
19 scope of this, but that is done.

20 Q. But they occur?

21 A. They do occur.

22 Q. Have you written code for any of those matches?

23 A. I have personally not written any code for
24 those matches.

25 Q. Has Mr. Mendoza?



1 A. I'd have to investigate and see if Mr. Mendoza
2 or other developers have written code for those
3 different matches.

4 Q. Are you aware of any other instance when you
5 performed work that was in response to a legislator's
6 query and that work was not released to the legislator?

7 A. I personally -- I don't know. I'm personally
8 not aware, but I don't always see what goes on to
9 legislators.

10 Q. But you're not aware of any other instance when
11 that has happened, correct?

12 MR. SWEETEN: Objection, foundation.

13 A. I'm not aware.

14 Q. (By Mr. Freeman) Okay. As a general matter, is
15 the Office of the Secretary of State responsive to
16 legislative queries?

17 MR. SWEETEN: Objection, relevance.
18 Objection, outside the scope of Topic 8.

19 Q. (By Mr. Freeman) To the extent of your
20 knowledge, you can answer.

21 A. To the best of my knowledge, we -- IT provides
22 expedient answers to requests.

23 Q. From the legislature?

24 A. From the legislature.

25 Q. Is the Office of the Secretary of State relying



1 on the legislature for appropriations?

2 A. That's outside my scope.

3 Q. Do you know?

4 MR. SWEETEN: Objection, calls for
5 speculation.

6 A. I'm speculating on how much finance.

7 Q. (By Mr. Freeman) Okay. We don't want you to
8 speculate. That's fine.

9 Are you aware of whether Secretary of
10 State Andrade stated that matches between DPS and SOS
11 data are misleading?

12 MR. SWEETEN: Objection, outside the scope
13 of Topic 8. We are way outside now of the January
14 analysis of 2011. And that statement that you made is
15 outside the scope of the topic as well. It's not -- I
16 think what you're quoting, I don't even think you could
17 find that quote within the time frame of Topic 8. So
18 now you're really outside the scope, Dan, and so I'm --
19 you're asking him something that is not related to what
20 he's here to testify about. It's just simply not
21 related. So I'm going to ask you to withdraw the
22 question.

23 MR. FREEMAN: The basis that I believe
24 it's related is that to the extent that criticisms were
25 levied of matches between DPS and SOS data, it's



1 relevant to this January match as to whether this match
2 was in any way misleading.

3 MR. SWEETEN: You can ask him if he thinks
4 -- I mean, that is so far outside the topic number. I
5 mean, come on, Dan, really. That is tangentially, at
6 best, relevant to this topic area. This is outside the
7 scope. You're using this for a purpose for which it
8 wasn't noticed. We've put him up on short notice. It's
9 not fair of you to ask this witness this question. He
10 can talk about the January 2011 analysis.

11 MR. FREEMAN: You know, I think -- that's
12 fine. I'll withdraw the question.

13 Q. (By Mr. Freeman) Okay. At this point, are
14 there any answers that you wish to change?

15 A. I can't think of any. Can I solicit counsel
16 for recommendations? No phone-a-friend?

17 Q. No. I actually had to tell -- I had previously
18 said in a deposition in this case, there is no
19 phone-a-friend in a deposition. And that was Speaker of
20 the House Joe Straus. So don't worry about it. If
21 there's nothing you wish to change, there is nothing you
22 wish to change.

23 Is there any information that you didn't
24 recall previously that you now recall?

25 A. No.



1 Q. Okay. And is there anything you would like to
2 add so that we can understand your answers more
3 clearly?

4 MR. SWEETEN: Objection, vague. Go ahead.

5 A. Not at this time. Do I have the ability the
6 answer or respond later?

7 MR. SWEETEN: Yeah. We can talk later
8 about that.

9 MR. FREEMAN: I mean, so we are going to
10 object to the State of Texas's failure to produce a
11 witness with knowledge of the -- of the fate of this
12 analysis, what became of it after it was actually
13 conducted. We are also -- we also believe that the
14 documents produced today do not relate to the provision
15 of legal advice by Ms. McGeehan, and therefore should
16 have been previously produced, and therefore, given that
17 they were not produced prior to Ms. McGeehan's
18 deposition, that we have been prejudiced and may seek
19 leave of the court for some form of limited further
20 relief.

21 And with that, I pass the witness.

22 EXAMINATION

23 BY MR. SWEETEN:

24 Q. Okay. Let me ask you a few questions. We're
25 here to talk today about any analyses that were



1 performed from 2005 to 2011. Is that your
2 understanding?

3 A. Sorry. That's correct.

4 Q. All right. And the cut-off date is May 27,
5 2011, right?

6 A. Right.

7 Q. How many analyses were performed from 2005 to
8 2011, to your knowledge, related to the DPS and voter
9 registration database?

10 A. These six queries.

11 Q. Okay. And when those six queries --
12 approximately what date did you run those six queries?

13 A. January 25th, 26th.

14 Q. Are you aware of any other analysis during that
15 time whatsoever between the DPS and voter registration
16 database?

17 A. I'm am not.

18 Q. Okay. Have you -- in preparing for this
19 deposition, you talked to several members of the
20 Secretary of State's Office?

21 A. That's correct.

22 Q. And in visiting with those individuals from the
23 Secretary of State, have you seen any indication
24 whatsoever that the results of this analysis were
25 provided to any member of the legislature?



1 A. I have not.

2 Q. Okay. Are you familiar with Ms. McGeehan's
3 testimony indicating that she did not provide this to
4 Tommy Williams, to Senator Williams?

5 A. I am.

6 Q. And have you seen anything to dispute that?

7 A. I have not.

8 Q. Okay. Did you run a Spanish surname review of
9 this analysis in January of 2011?

10 A. Did not, no.

11 MR. FREEMAN: Objection, asked and
12 answered.

13 MR. SWEETEN: All right. I have no
14 further questions. Thank you.

15 MR. FREEMAN: I just one quick clarifying
16 question, just to be clear on Mr. Sweeten's question.

17 FURTHER EXAMINATION

18 BY MR. FREEMAN:

19 Q. When he asked whether you were aware of any
20 matches between DPS and SOS, was your answer limited to
21 with regard to voter ID, or you were testifying that
22 you're not aware of any other circumstances in which
23 data from the Department of Public Safety has been
24 matched to data in the TEAM database?

25 MR. SWEETEN: During the time period.



1 Q. (By Mr. Freeman) During the time period.

2 A. I'm not aware of any -- during that time period
3 of any data matches done during that period.

4 Q. Between data from those two sources?

5 A. I mean, I'm not aware -- between those two
6 sources between -- from the 2005 to the May 2011 time
7 period.

8 Q. Okay. But you are aware of matches between the
9 TEAM database and other data sources outside the office
10 of the Secretary of State, just not DPS, correct?

11 A. Is it possible for me to talk to counsel, or
12 no?

13 Q. Unfortunately, it's not.

14 A. DPS is a source to validate information on
15 voters, so there's -- there's an ongoing matching that's
16 done for that for a live check.

17 Q. Okay.

18 A. For example.

19 Q. So, for example, during a live check process,
20 data is routinely matched from DPS sources to the SOS
21 databases, correct?

22 A. It's a copy of the DPS database at TEAM.

23 Q. Okay. So that's done every day when there's a
24 new voter registration application --

25 A. That's correct.



1 Q. -- that comes in?

2 A. Right.

3 MR. FREEMAN: I pass the witness.

4 FURTHER EXAMINATION

5 BY MR. SWEETEN:

6 Q. All right. The topic that we're here on was
7 any and all analysis of registered voters who possess a
8 Texas driver's license or personal identification card
9 between January 1st, 2005 and May 27, 2011. Okay? Do
10 you understand that?

11 A. Yes.

12 Q. Other than January 2011, are you aware of any
13 such analysis having been performed?

14 A. Not analysis.

15 Q. Okay.

16 A. No.

17 MR. SWEETEN: I have no further questions.

18 MR. FREEMAN: Nor do I.

19 Thank you so much for your testimony.

20 THE WITNESS: Thank you.

21 (Signature reserved.)

22 (Deposition concluded at 6:09 p.m.)

23

24

25



90

1 CHANGES AND SIGNATURE

2 RE: TEXAS VS. HOLDER, ET AL

3 PAGE LINE CHANGE REASON

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 I, LEE GUYETTE, have read the foregoing deposition

21 and hereby affix my signature that same is true and

22 correct, except as noted above.

23 _____

24 LEE GUYETTE

25



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 202.296.8652

Suite 350
1425 K Street NW
Washington, DC 20005
www.esquiresolutions.com

1 THE STATE OF _____)

2 COUNTY OF _____)

3
4 Before me, _____, on this day
5 personally appeared LEE GUYETTE, known to me (or proved
6 to me under oath or through _____
7 (description of identity card or other document) to be
8 the person whose name is subscribed to the foregoing
9 instrument and acknowledged to me that they executed the
10 same for the purposes and consideration therein
11 expressed.

12 Given under my hand and seal of office
13 this _____ day of _____, 2012.

14
15
16 _____
17 NOTARY PUBLIC IN AND FOR
18 THE STATE OF _____
19
20
21
22
23
24
25



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS,)

Plaintiff,)

VS.)

ERIC H. HOLDER, JR. in his)
official capacity as Attorney)
General of the United States,)

Defendant,)

ERIC KENNIE, et al,)

Defendant-Intervenors,)

TEXAS STATE CONFERENCE OF)
NAACP BRANCHES,)

Defendant-Intervenors,)

TEXAS LEAGUE OF YOUNG VOTERS)
EDUCATION FUND, et al,)

Defendant-Intervenors,)

TEXAS LEGISLATIVE BLACK)
CAUCUS, et al,)

Defendant-Intervenors,)

VICTORIA RODRIGUEZ, et al.,)

Defendant-Intervenors.)

CASE NO. 1:12-CV-00128
(RMC-DST-RLW)
Three-Judge Court

REPORTER'S CERTIFICATION
DEPOSITION OF LEE GUYETTE
JUNE 19, 2012

I, Chris Carpenter, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, LEE GUYETTE, was duly sworn by the



ESQUIRE
DEPOSITION SOLUTIONS

Toll Free: 800.211.DEPO
Facsimile: 202.296.8652

Suite 350
1425 K Street NW
Washington, DC 20005
www.esquiresolutions.com

officer and that the transcript of the oral deposition
is a true record of the testimony given by the witness;

That the deposition transcript was submitted on the
_____day of _____, 2012, to the witness or to the
attorney for the witness for examination, signature and
return to _____, by
_____, 2012; and if returned, the original
transcript will forwarded to Daniel Freeman, the
custodial attorney;

That the amount of time used by each party at the
deposition is as follows:

Mr. Freeman: 2 hours, 19 minutes

Mr. Sweeten: 1 minute

I further certify that I am neither counsel for,
related to, nor employed by any of the parties or
attorneys in the action in which this proceeding was
taken, and further that I am not financially or
otherwise interested in the outcome of the action.

Certified to by me this 20th day of June, 2012.



Chris Carpenter

Chris Carpenter, Texas CSR 1151
Expiration Date: 12/31/2012
100 Congress Avenue, Suite 2000
Austin, TX 78701
(512)328-5557
Firm Registration No. 283

